1942 **File No.** O. Mohamedan /42

Legal. **DEPARTMENT**

A **BRANCH**

Subject:— Opinion under the Mahomedan Law

P 3

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Std. Sectt. Slip 24 B c.

300 A

C.I.F.71.

Legal Department Vol. O. Mahomedans /1942

Gr. No.	Compilation No.	Subject.	Pages.
1	R.I.1571 12-2-42 O.M.2563 23-3-42	Whether only the Mark.covered portion or everything inside the compound walls is to be considered mosque.	1-3

PCM. 4/5
SC

AY 9/5

9/5

1671/12-2-42.

Submitted.

Please see letter from the D.M., West Khandesh, at p.1 ante enquiring about the interpretation of the expression "mosque". The question is whether only the covered portion or whether everything inside the compund walls is to be considered as a mosque.

2. In Akbarally Vs. Mahommed Ally (34 Bom. L.R. 655) Tyabji J. observes at p. 668 as follows: "The word "masjid" estymologically means a place where where the head may be laid down in prostration (for prayer). It is not implied that the prostration may be made only in a masjid. The word does not cannot any building. The books speak of an open space of building ground being consecrated as a Masjid" Both in Iyer's Law Lexicon (p. 794) and in Wilson's Glossary (p. 527) the term has been interpreted accordingly reliance being placed on the same fuling. It appears therefore that not only the covered portion but also the space within the compound wall will be included in the term "mosque". 2The H.D. may be requested ~~in the~~ invite the attention of the D.M., West Khandesh to the above observations of Tyabji J.

The Privy Council ruling referred to in para. 2 of the D.M.'s letter is not traceable.

Id/- D.V.D.
19/2

A.S.

Id/- R.T.L.
24/2

D.S. ~~K~~.

Pl. see if any information can be had from books on Mohammedan Law.

If the digest of the P.C. rulings is only up to 1930, the reports in I.A. since that year may also be looked up.

Id/- B.N.S. 24-2-42

Office.

Resubmitted.

Reports in I.A. series from 1929-30 to 1938-39 have been looked up; as also all the available books on Mohammedan Law, Iyer's 'Annual Digest" which contains a digest of cases reported in the I.A. series has also been look up; but the case referred to by the D.M. is not found out. In Tyabji's Mohammedan Law the decision in Akbarally Vs.Mohamd Ali (cited overleaf) has been referred to. In Maula Bakshis Amir-Ud*din, I.L.R. Lah. 317 it has been held that a mosque is any place dedicated for prayer; and that it need not have a minaret.

Sd/-
27-2

A.S.

I have not been able to trace the ruling the D.M. has in mind. His attention may be drawn to 34 B.L.R. 655 and may be informed that the case he seems to have in mind is not traceable.

Id/- R.T.K.
28-2

D.S.

I agree Perhaps the reply may be as at A-A and B-B in Mr. D's note overleaf.

Id/-B.N.S.
7-3-42

PSM. 5/5
4C

Office of the R.L.A.

In Akbarally Vs. Mahomed Ally (34 Bom.L.R.655) Tyabji J. observes at page 668 as follows:-

" The word 'masjid etymologically means a place where the head may be laid down in prostration(for prayer) . It is not implied that the prostration may be made only in a masjid. The word does not cannote any building. The books speak of an open space of building ground being consecrated as a masjid".

2. The Home Department is requested to invite the attention of the District Magistrate, West Khandesh, to the above observations of Tyabji J. The Privy Council ruling referred to in paragraph 2 of the District Magistrate's letter is not traceable.

Id/- P.N.M.
19-3

Remembr ncer of Legal Affairs.

U.R. to H.D., No., 2563, dated the 23rd March 1942..

PSM. 5/5